

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 27, 2003

IN RE:

**PETITION FOR APPROVAL OF
AMENDMENT TO INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
LOADPOINT, LLC**

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**DOCKET NO.
03-00400**

**ORDER APPROVING
SECOND AMENDMENT TO INTERCONNECTION AGREEMENT**

This matter came before Director Pat Miller, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on August 4, 2003, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the second amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and LoadPoint, LLC.

The original interconnection agreement between these parties was filed on April 23, 2002, and was assigned Docket No. 02-00467. At the Authority Conference held on June 11, 2002, a majority¹ of the Directors² voted to take no action on the agreement. By operation of

¹ Former Chairman Kyle did not vote with the majority. Instead, she voted in favor of approval.

² The terms of the former Directors of the Authority, Chairman Sara Kyle, Director H. Lynn Greer, Jr., and Director Melvin J. Malone, expired on June 30, 2002. Chairman Sara Kyle was reappointed and commenced a new term as a Director of the Authority on July 1, 2002. Director Deborah Taylor Tate, Director Pat Miller, and Director Ron Jones began terms as Directors on July 1, 2002. Director Tate became Chairman on July 1, 2003. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. § 65-1-204, a three member voting panel consisting of Director Miller, Director Kyle, and Director Jones was randomly selected and assigned to this docket.

Section 252(e)(4) of the Telecommunications Act of 1996, the interconnection agreement was deemed approved on July 22, 2002. The first amendment was filed on May 23, 2002, under Docket No. 02-00612, and was approved at a regularly scheduled Authority Conference on July 23, 2002. The second amendment, which is the subject of this docket, was filed on June 20, 2003.

Based upon a review of the second amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.

2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the service area of BellSouth Telecommunications, Inc.

3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).³ Thus, although the Authority finds that neither ground for rejection

³ See 47 U.S.C. § 252(e)(2)(B).


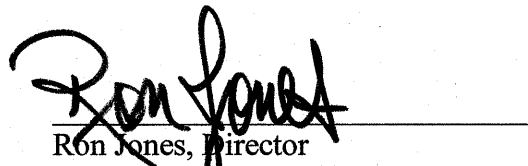
of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the second amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and LoadPoint, LLC is approved and is subject to the review of the Authority as provided herein.


Pat Miller, Director
Sara Kyle, Director
Ron Jones, Director